

Agency Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	357.43	0.00	16.00	373.43	0.00	16.00	373.43	373.43
Personal Services	8,364,385	11,877,687	656,641	20,898,713	11,851,000	659,694	20,875,079	41,773,792
Operating Expenses	1,744,876	7,750,231	668,460	10,163,567	8,638,262	638,852	11,021,990	21,185,557
Equipment	329,311	0	0	329,311	0	0	329,311	658,622
Grants	0	0	480,849	480,849	0	480,849	480,849	961,698
<b>Total Costs</b>	<b>\$10,438,572</b>	<b>\$19,627,918</b>	<b>\$1,805,950</b>	<b>\$31,872,440</b>	<b>\$20,489,262</b>	<b>\$1,779,395</b>	<b>\$32,707,229</b>	<b>\$64,579,669</b>
General Fund	9,354,970	19,508,432	(25,000)	28,838,402	20,367,446	(25,000)	29,697,416	58,535,818
State/Other Special	710,015	175,997	1,757,342	2,643,354	178,761	1,731,019	2,619,795	5,263,149
Federal Special	373,587	(56,511)	73,608	390,684	(56,945)	73,376	390,018	780,702
<b>Total Funds</b>	<b>\$10,438,572</b>	<b>\$19,627,918</b>	<b>\$1,805,950</b>	<b>\$31,872,440</b>	<b>\$20,489,262</b>	<b>\$1,779,395</b>	<b>\$32,707,229</b>	<b>\$64,579,669</b>

### Agency Description

The Judicial Branch is authorized by Article III, Section I, and Article VII of the Montana Constitution. The Supreme Court, consisting of a Chief Justice and six justices, has appellate jurisdiction for the state. The court also has original jurisdiction to issue, hear, and determine writs as provided by law, and has general supervisory control over all courts in the state. The Supreme Court establishes rules governing appellate procedure, other court practices and procedures, admission to the bar, and conduct of its members. SB 176, approved by the 57th Legislature, mandated state funding of Montana district courts with general fund revenue beginning July 1, 2002. The bill made district courts part of the Judicial Branch of state government.

### Executive Recommended Legislation

**District Court Variable Costs** - The executive proposes a bill to sort out responsibilities for the variable costs that are projected to be in excess of the funding mechanism provided under district court assumption. These costs are projected at \$17.2 million by the judiciary based on the average increase of costs from 1996 through 2001 as reimbursed through the former state district court reimbursement program, plus an adjustment for uncertainties regarding variable costs. The adjustment of about \$6 million for uncertainties of variable costs is not based upon actual cost experience. Consequently the validity of the cost can be questioned.

**Judicial Branch Information Technology** - The executive proposes increasing the user surcharge for court information technology and making permanent the user surcharge and the account established for court information technology. This is included as a new proposal requiring additional legislation under Program 01 Supreme Court Operations.

## Agency Discussion

<b>Judiciary</b> <b>Major Budget Highlights</b>
<ul style="list-style-type: none"> <li>○ General fund increase \$19.5 million in fiscal 2004 and \$20.3 million in fiscal 2005 over fiscal 2002 expenditures, primarily due to state district court assumption</li> <li>○ State special revenue increases approximately \$1.7 million per year based on a proposed increase in and continuation of the information technology surcharge</li> <li>○ The Executive Budget includes the addition of 16.00 FTE, 14.00 of which would be funded with state special revenue from the information technology surcharge and the remaining 2.00 with federal special revenue</li> <li>○ The Executive Budget is about \$18.2 million less than the agency submitted budget primarily due to variable costs of indigent defense, involuntary commitment proceedings, jury and witness fees, and some court reporting costs</li> <li>○ Judiciary Branch proposals not recommended to be funded by the executive, but that may be pursued by the branch include: <ul style="list-style-type: none"> <li>○ \$329,559 for three law clerks for the Supreme Court Justices</li> <li>○ \$185,790 to fund 2.25 FTE, including an accounting technician to process district court expenses and 1.25 FTE to replace 1.25 FTE that are currently filled, but whose statutory authority was eliminated with the passage of SB 176</li> <li>○ \$17,211,828 for estimated district court variable costs of court reporters, jury services, witness services, psychiatric examinations, indigent defense, court appointed special advocate (CASA)/guardian at litem (GAL), youth court/juvenile probation, and youth in need of care. This amount is estimated by the Judiciary and is in addition to funding of \$15,128,509 proposed by the executive</li> </ul> </li> <li>○ The branch voluntarily withdrew \$202,400 of general fund proposals and replaced \$109,444 others with state special revenue to meet the Governor's target in some programs.</li> </ul>
<b>Major LFD Issues</b>
<ul style="list-style-type: none"> <li>○ Judicial branch information technology</li> <li>○ State assumption of district courts</li> <li>○ Requests for funding when some expenditures are already in the base</li> </ul>

### Funding

The following table summarizes funding for the agency, by program and source as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2005 Biennium Executive Budget					
Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
Supreme Court Operations	\$ 6,095,260	\$ 3,768,361	\$ 780,702	\$ 10,644,323	16.5%
Boards And Commissions	518,271	50,000	-	568,271	0.9%
Law Library	1,546,920	-	-	1,546,920	2.4%
District Court Operations	49,629,543	-	-	49,629,543	76.9%
Water Courts Supervision	-	1,444,788	-	1,444,788	2.2%
Clerk Of Court	745,824	-	-	745,824	1.2%
Grand Total	\$ 58,535,818	\$ 5,263,149	\$ 780,702	\$ 64,579,669	100.0%

Biennium Budget Comparison								
Budget Item	Present Law Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	Present Law Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Biennium Fiscal 02-03	Total Exec. Budget Fiscal 04-05
FTE	357.43	16.00	373.43	357.43	16.00	373.43	357.43	373.43
Personal Services	20,242,072	656,641	20,898,713	20,215,385	659,694	20,875,079	26,793,871	41,773,792
Operating Expenses	9,495,107	668,460	10,163,567	10,383,138	638,852	11,021,990	5,553,989	21,185,557
Equipment	329,311	0	329,311	329,311	0	329,311	943,681	658,622
Grants	0	480,849	480,849	0	480,849	480,849	634,340	961,698
<b>Total Costs</b>	<b>\$30,066,490</b>	<b>\$1,805,950</b>	<b>\$31,872,440</b>	<b>\$30,927,834</b>	<b>\$1,779,395</b>	<b>\$32,707,229</b>	<b>\$33,925,881</b>	<b>\$64,579,669</b>
General Fund	28,863,402	(25,000)	28,838,402	29,722,416	(25,000)	29,697,416	30,640,096	58,535,818
State/Other Special	886,012	1,757,342	2,643,354	888,776	1,731,019	2,619,795	2,492,534	5,263,149
Federal Special	317,076	73,608	390,684	316,642	73,376	390,018	793,251	780,702
<b>Total Funds</b>	<b>\$30,066,490</b>	<b>\$1,805,950</b>	<b>\$31,872,440</b>	<b>\$30,927,834</b>	<b>\$1,779,395</b>	<b>\$32,707,229</b>	<b>\$33,925,881</b>	<b>\$64,579,669</b>

### New Proposals

The "New Proposals" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
Program	FTE	Fiscal 2004				Fiscal 2005				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 1101 - Grant Manager										
01	1.00	0	0	43,618	43,618	1.00	0	0	43,473	43,473
DP 1103 - Court Assessment Program										
01	1.00	0	0	29,990	29,990	1.00	0	0	29,903	29,903
DP 2101 - Courts of Limited Jurisdiction Funding Switch										
02	0.00	(25,000)	25,000	0	0	0.00	(25,000)	25,000	0	0
DP 5101 - Reduce Water Courts Personal Services										
05	0.00	0	(15,000)	0	(15,000)	0.00	0	(15,000)	0	(15,000)
DP 8001 - Judicial Branch Information Technology (Requires Legislation)										
01	14.00	0	1,717,620	0	1,717,620	14.00	0	1,691,297	0	1,691,297
DP 8003 - Computer Replacement (Requires Legislation)										
01	0.00	0	29,722	0	29,722	0.00	0	29,722	0	29,722
<b>Total</b>	<b>16.00</b>	<b>(\$25,000)</b>	<b>\$1,757,342</b>	<b>\$73,608</b>	<b>\$1,805,950</b>	<b>16.00</b>	<b>(\$25,000)</b>	<b>\$1,731,019</b>	<b>\$73,376</b>	<b>\$1,779,395</b>

## Agency Issues

### *Background*

District court financing has been a challenge for many state and local governments throughout the country. Prior to July 1, 2002, primarily the counties funded Montana district courts, except district court judges salaries and reimbursements to counties for some costs related to criminal felony cases were provided by the state. This changed during the 2001 legislative session when SB 176, requiring district courts to become a state administered and funded program, along with HB 124, intended to simplify the state and local government funding structure, were approved. These bills evolved out of the work of two 1999/2000 interim committees charged with exploring concepts and opportunities to create a complementary funding relationship between state and local governments, including district courts. The Court Funding and Structure Committee's primary mission was to look at bringing the responsibility for funding and operating the court system into one governing body. The Local Government Structure and Funding Committee worked on simplifying the funding. The committees recommended to the 2001 legislature that district court functions become state funded under the Judiciary Branch of government (except for clerks of district court and their employees).

State district court assumption became effective on July 1, 2002 and was implemented through the efforts of the District Court Council, provided in SB 176, along with Judiciary staff. During this time and since implementation, the council and branch have encountered issues with SB 176 and continue to advocate that the bill was under funded. Details related to the original legislation, the proposed 2005 Executive Budget, the issues, and options are provided.

### *2003 Biennium*

#### SB 176

Under SB 176 passed by the 2001 legislature, the district courts, with the primary exception of the clerks of court and the provision of office space, became a state-funded function. Beginning in fiscal 2003, the state Judiciary assumed responsibility for oversight and administration of the 22 courts, including approximately 245 additional FTE. Major provisions of this legislation include:

- Establishment of a District Court Council to adopt policies and procedures to administer the state-funded district court program, including resource allocation among district courts, hiring policies, court procedures, information technology, and other issues relevant to state assumption of district courts
- Detail of what is considered a state-assumed cost, and what remains a local government cost, including specific costs to be paid for with revenue from local government mill levy for district courts in 7-6-2511, MCA
- Depositing the revenue from a variety of district court fees and reimbursed costs in the state general fund, effective July 1, 2003
- Requiring that each county is to provide office, courtroom, and other space for district court operations.
- Providing for local government authority to supplement the district court budget
- Providing that the court administrator shall administer legal assistance for indigent victims of domestic violence, as provided for in § 3-2-714, MCA
- Providing that court reporters may be 1) state employees foregoing transcription fees (all transcription fees must be deposited in the state general fund); 2) state employees retaining transcription fees; or 3) independent contractors

Functions that had been supported by the counties that are now state expenses include:

- Salaries and benefits for staff of district court judges (except clerks), law clerks, court reporters, supreme court marshals, juvenile probation officers, youth division office staff, and youth court assessment officers
- Juror and witness fees before a grand jury
- Court sanctioned education program on effects of dissolution of marriage on children
- All expenses associated with civil jury trials if paid in county budgets in fiscal 1998 or 1999
- All other costs associated with operations and maintenance of district courts including contract costs for court reporters, youth court and youth division offices, and employee training
- Involuntary commitment proceedings.

In addition, the state assumed full financial support for certain costs that had been funded in whole or in part with state appropriations. These include:

- Total costs of transcripts, witness fees and expenses, jury fees and expenses, psychiatric examination fees, and indigent defense in criminal cases only (beginning July 1, 2003 prior to this date the state paid to extent that funds were available)
- County attorney costs if related to escape or disturbance at Montana State Prison
- Transcript fees, witness fees, and psychiatric examination fees in federal habeas corpus cases that challenge validity of a conviction or sentence
- Habeas corpus post conviction proceedings and appeals
- Transcript fees, witness fees, medical and psychological evaluation fees of a youth or guardian, guardian ad litem or child advocate for youth, and court ordered alternative dispute resolution costs in youth investigations, youth legal custody, or termination of parental rights proceedings
- The appellate defender program
- Salaries, benefits, travel and training of district court judges

### **Funding**

Funding was provided through two means: 1) HB 2; and 2) HB 124.

#### *HB 2*

The 2001 legislature appropriated \$800,500 general fund over the biennium to the Judiciary in HB 2, for costs associated with administering state district court assumption such as the accounting, payroll, budgeting and administrative functions. Funding for 8.50 FTE, operating expenses and equipment was included in the restricted appropriation. HB 2 also included costs of the district court judge's salaries, benefits, and travel expenses, which had already been a state expense. General fund of \$4,853,964 in fiscal 2002 and \$5,006,311 in fiscal 2003 was appropriated for that purpose.

#### *HB 124*

An appropriation was made in HB 124 for other fiscal 2003 expenses of the court. Because counties realize a cost savings from state assumption of the district courts, the allocation of reimbursed moneys to which counties were entitled under HB 124 was reduced by a like amount in fiscal 2003.

### **Original Funding Projections**

#### *Methodology*

Original funding projections were provided by county government, compiled and reviewed by Department of Revenue (DOR), with reconciliation done in partnership between DOR and the counties. The methodology was based on 1998 county revenues used to fund district courts as recorded in the state Budgeting and Reporting System (BARS), followed by a 1999 expenditure survey of county commissioners conducted by the DOR Tax Policy and Research (TPR) staff to verify the BARS data. TPR staff repeated the survey in 2001. All three efforts were fairly consistent in their results, as illustrated in the following figure, providing a reasonable basis for the funding projections.

Figure 1  
District Court Funding Projections

	Actual Recorded Total Cnty Expenses	---Reductions - Continued County Costs--- Clerk of Court	Grants	Other	State Assumed Expenses
1998 BARS Data	25,951,436	5,331,746	1,053,053	679,726	18,886,911
1999 Expenditure Survey	25,935,962	n/a	n/a	n/a	n/a
2001 Expenditure Survey	28,423,178	6,190,599	2,192,857	1,875,620	18,164,102

*\*2001 costs in the "Other" column included \$940,000 of lower court public defender costs & \$427,000 juvenile probation costs (in-home dependent care, jailers) that were harder to break out under the 1999 survey methodology*

Since the 1998 and 1999 numbers were very close, the interim committee used the 1998 BARS number as their starting point, allowing the benefit of inflation from 1998 to 1999. The number was adjusted to remove costs that wouldn't be funded by the state, such as fixed charges, debt service, grants and contributions, and capital outlay, along with the personal services and operating costs of the clerks of district court. The adjusted 1998 number was about \$18.9 million.

To estimate expenses for the 2003 biennium, pay and inflation adjustments were made to the adjusted 1998 amount. Pay adjustments were based on the executive pay plan for the 2001 biennium providing a 3 percent per year increase. An inflation price index that averaged about 2.1 percent per year was applied to supplies and equipment. The result was a projected fiscal 2003 expense of \$24.5 million.

The expenditure survey of county commissioners was repeated by TPR staff in 2001 and reflected total county expenditures for district courts (before adjustments) at \$28,423,178. This number is very close to \$28,357,834, the amount calculated when applying a 3 percent growth factor to the 1998 unadjusted BARS number of \$25,951,436. But, once adjustments for non-state assumed expenses are removed the state assumed costs are \$18,164,101, about equivalent to the 1998 estimated state assumed costs. The reason is that reported expenditures reflect that counties received approximately \$1.0 million more in grants than received in 1998, clerk of court expenditures increased about \$859,000, and other non-assumed state expenses increased about \$1.2 million. Other non-assumed state expenses included \$940,000 of non-criminal public defender costs and \$427,000 in juvenile probation costs, a lot of which involved contracted services that may have been harder to separate into state assumed or county cost under the 1999 methodology. The 2001 methodology was improved to more accurately reflect county continued versus state assumed costs through collection of data by function (i.e. clerk of court, public defender, etc) and expenditure type. However, there were still instances where costs could not be broken out. In those situations, staff categorized the total costs as state-assumed expenses in an effort to avoid underestimating costs.

The 2003 appropriation was established based on the 2001 survey of county government expenditures for district courts plus a 6 percent growth adjustment and was included in HB 18 of the August 2002 Special Session at \$18,389,345.

## 2005 Biennium

### *Executive Budget Request*

#### Overview

The executive recommended 2005 biennium budget for Program 04-District Court Operations is \$49,629,543. The Executive Budget presents the district court program as two major components, district court operations and district court assumption. District court operations consist of the 42 district court judges' salaries, and personal services and operating costs for the 8.50 FTE authorized by the 2001 legislature. As stated, these costs were included in HB 2 in the 2003 biennium. District court assumption refers to the fixed and variable costs assumed by the state under SB 176, along with the operating costs of the district court judges. These costs were appropriated in HB 124 in fiscal 2003. The components of the proposed 2005 biennium funding level are shown in Figure 2:

Figure 2 Executive Proposed 2005 Biennium District Court Budget by Year			
	FY 2004	FY 2005	Biennial Total
<u>District Court Operations</u>			
FTE	50.5	50.5	
Personal Services	5,693,730	5,676,902	11,370,632
Operating Costs	472,386	474,905	947,291
DC Operations Total	\$ 6,166,116	\$ 6,151,807	\$ 12,317,923
<u>District Court Assumption</u>			
FTE	245.18	245.18	
Personal Services	10,778,617	10,768,670	21,547,287
Operating Costs	7,434,309	8,330,024	15,764,333
DC Assumption Total	\$ 18,212,926	\$ 19,098,694	\$ 37,311,620
<u>Total State DC Program</u>			
FTE	295.68	295.68	
Personal Services	16,472,347	16,445,572	32,917,919
Operating Costs	7,906,695	8,804,929	16,711,624
Total Combined State DC Program	\$ 24,379,042	\$ 25,250,501	\$ 49,629,543

#### District Court Operations

The first component, district court operations, increases about \$322,000, or 5.5 percent over the fiscal 2002 appropriated level. The increase is attributed to pay raises made in accordance with 3-5-2111, MCA for the 42 district court judges including the salaries of two new judges in Ravalli and Cascade counties added in fiscal 2003, along with statewide adjustments for fixed costs, inflation and annualization of the pay plan for the 8.50 non-judge employees.

As stated, the 2001 legislature provided an \$800,500 biennial appropriation in HB 2 to administer district court assumption. The legislation did not specify for what the funds were to be spent. However, the SB 176 fiscal note used to provide direction for the HB 2 appropriation was developed based on 8.50 FTE at an approximate biennial cost of \$648,816, operating costs at \$121,800 (20 percent of personal services), and one-time equipment at \$29,750. FTE envisioned in the fiscal note included a district court administrator, 1.00 FTE support staff and 6.50 FTE fiscal staff.

Most of the employees were hired near the end of fiscal 2002 and salaries were provided at a higher level than anticipated. Actual hires by the Judiciary included three administrators (human resources, information technology and district courts), two accounting and fiscal policy analysts, a financial assistant, a payroll technician, an office assistant and a half-time grant specialist. The 2003 biennium annualized costs including salary and benefits is about \$987,000, increasing to approximately \$1,013,900 for the 2005 biennium. Biennium costs for personal services associated with the 8.50 FTE are about \$365,100 greater than the 2003 biennium anticipated level of \$648,816. Because most of the positions were hired in the latter part of fiscal 2002, only \$217,500 of the 2003 biennium appropriation was expended in the first year. Therefore, expenditures should not exceed the appropriated amount in fiscal 2003, but have led to a higher fiscal 2005 budget request.

District Court Assumption

The second component, district court assumption, includes \$18.2 million in fiscal 2004 and \$19.1 million in fiscal 2005 for personal services and operating expenses compared to the fiscal 2003 appropriation of \$18.4 million. The executive adjusted the 2003 appropriation for staff and operating costs of the two new judgeships and special session reductions. The remaining difference between the fiscal 2003 appropriation and the Executive Budget is attributed to the amount of funding included by the executive in the variable cost component.

Costs are divided into “fixed” and “variable” costs. Section 62 of SB 176 describes the fixed budget component as costs that are not variable with caseload including salaries and related operating costs for permanent employees of the court and contracted professional services.

The variable cost component are those costs that are variable with caseload including but not limited to juror fees, witness fees and expenses, and indigent defense costs. In fiscal 2003, any costs over the appropriated level are the responsibility of the counties. However, under current law, these costs will be completely borne by the state, starting in fiscal 2004. In its original request, the Judiciary included an additional \$17.2 million over the biennium for these costs. The executive notes that a bill will be introduced to determine responsibilities regarding variable costs and address the difference between the agency submitted and executive budget.

Variable costs estimated by the branch were based on the past five years of costs reimbursed to counties under the district court criminal reimbursement program for court reporters, jury services, witness services, psych exams, indigent defense, fixed costs, CASA/GAL, youth court/juvenile probation, and youth in need of care. An average annual increase was calculated for each item and applied to 2001 actual reimbursements to estimate the 2005 biennium costs. However, before applying the percent increase, fiscal 2001 actual reimbursements were inflated due to the uncertainties of variable costs. This inflationary adjustment accounts for approximately \$6.0 million of the difference between the agency and executive projected budgets. This inflation amount was not based upon actual cost experience. Consequently, the validity of the cost increase can be questioned.

**ISSUES***Unanticipated Costs*

In testimony to both the Legislative Finance Committee and Law and Justice Interim Committee, representatives of the Supreme Court identified several concerns with the current level of funding provided to administer and operate the district courts. Costs are attributed to staff & operating expenses for new judgeships in Cascade and Ravalli counties, court automation expenses, costs of the pay plan, additional rent, county employee leave accruals, grant funded positions, and increases in variable costs. The majority of the additional funding is requested in the Executive Budget and includes:

- o Staff and operating costs of new Cascade and Ravalli county judges - \$241,200 of which \$156,000 was added during 2002 special session and \$89,200 annualized cost is requested as a present law adjustment. Funding for the new judges was provided through HB 2, but the associated staff and operating expenses were not.
- o Costs of the new Judicial Branch pay plan for FTE below minimum salary level - \$156,000 is requested as a present law adjustment. SB 176 guarantees former county employee salaries at their June 30, 2002 level, and protects them from reductions based on branch wide pay plan implementation, which becomes effective on July 1, 2003. However, there was no provision for increasing employee pay that falls below the minimum pay range specified in the pay plan. Court staff identified 25.00 FTE below the minimum level for whom they are requesting additional pay.
- o Additional rent for the federal building - \$214,400 is requested as a present law adjustment. SB 176 expressly excluded additional rent costs.
- o Court automation - \$3,400,000 is requested as a new proposal under the Supreme Court Program. Court automation was not mentioned in SB 176.
- o Variable costs - \$17.2 million for which the executive intends to propose legislation to sort out these costs.

The remaining items will be handled without additional funding and include:



- o Grant funded positions – these are positions funded through a federal grant to the Board of Crime Control and reimbursed by the Judiciary that were not addressed in SB 176. The Judiciary intends to move these employees into authorized FTE positions as vacancies occur.
- o Former county employee accrued leave - SB 176 allowed the transfer of accumulated sick leave, vacation leave, and years of service to the state. The Judiciary is responsible for payout of these balances as employees leave their state job. Estimated accrued leave transferred to the state includes 44,000 hours of annual leave, 91,000 hours of sick leave, and 4,000 hours of excess annual leave.

#### *Personal Services*

Personal services costs are higher in the 2003 biennium than anticipated. There are three actions that have contributed to a higher than anticipated personal services budget. These include pay increases provided to some county employees in the year prior to state assumption, the July 1, 2002 implementation of the fiscal 2003 pay raise for the new county employees, and costs of the 8.50 FTE approved by the 2001 legislature.

First, in the fall of 2001, the District Court Council and state budget director became aware of significant salary increases granted in some judicial districts/counties in anticipation of state assumption. The District Court Council directed the Supreme Court Administrator to collect fiscal 2001 and 2002 district court budgets from the judges. However, not all counties submitted their budgets. But, through information collected by the Department of Revenue from contacts with various county financial officers, at least 14 employees in 4 judicial districts were given raises ranging from 6 to 34 percent at an approximate cost of \$20,000 per district.

Next, Section 59 of SB 176 specified that former county employees who become state employees are entitled to the person's June 30, 2002 salary and compensation. In addition, the person is entitled to a pay increase equal to the average pay increase for existing judicial branch employees in fiscal 2003. However, increases for the former county employees, estimated at \$360,000, were not funded in HB 13, the state pay plan bill. All Judiciary Branch employees, including the former county employees, were given a 4 percent pay increase on July 1, 2002. Although SB 176 allowed this, HB 13 did not fund it for the 245.00 FTE former county employees. Also, HB 13 included a delayed implementation date for the pay increases, so Judiciary Branch employees received their raises three months ahead of most other state employees at an estimated cost of \$90,000 for former county employees and \$22,000 for existing Judiciary staff.

Finally, as discussed earlier, costs of the 8.50 FTE authorized by the 2001 legislature are about \$365,100 higher than anticipated due to the type of positions hired and salaries provided.

The impact of these actions is that the "fixed" component of the district court budget will be higher, leaving less for the variable component.

#### *Variable Costs*

As stated, variable costs consist of those expenses that vary with caseload including jury fees, witness fees, psychiatric exams, a percentage of court reporting services and indigent defense in criminal cases. Since 1985, county costs for these items have been reimbursed through the district court criminal reimbursement program, funded from a percentage of the motor vehicle tax. Excess funds are distributed in the form of grants to the counties. The "2001 Annual Report of the Montana Judiciary" reported that county expenses were covered at 100 percent in fiscal years 1999, 2000, and 2001 and about \$244,500 was distributed in grants to 38 eligible counties in 2001. Total 2001 available funds were approximately \$6.0 million. Yet the Judiciary has projected additional costs up to \$17.2 million over the next biennium beyond the executive proposed \$15.1 million.

With district court assumption, the criminal reimbursement program goes away and the state assumes the costs. During the first year, any costs beyond the appropriated funding level are the responsibility of the counties, in accordance with SB 176. The District Court Council has decided to reimburse counties at 65 percent to ensure equity amongst all counties and ensure funding through the end of the year. Beginning July 1, 2003 the state will be responsible for the total variable costs. The most significant cost is indigent defense.

*Indigent Defense* - The 6th Amendment to the U. S. Constitution provides every person with a right to adequate and effective representation when charged with a crime punishable by imprisonment. State statute (46-8-101, MCA) also

mandates state-funded representation when a person who has been charged with a felony is determined to be indigent. The two methods used in Montana for delivering these constitutionally guaranteed services are through in-house public defenders and a system known as appointed or assigned counsel. A few of the more populated Montana counties have public defender offices with full-time or part-time attorney's who provide indigent defense counsel as government employees. Most rural Montana counties contract out the work.

Two issues regarding these costs include:

- Variability and lack of predictability of these costs; and
- Lack of control by the state. With state assumption, there is no incentive for the counties to control the costs.

Two factors that could be looked at to try to contain costs include attorney fees for indigent defense and the definition of indigent. During the annual MACO conference, some rural counties indicated that they've seen significant increases in their contracts. Statute does not specify a maximum rate for indigent defense, yet many states do set a maximum in an effort to provide statewide consistency and to control costs. Judiciary staff has been tracking expenses to try and identify a reasonable cost. At its November 15, 2002 meeting, the District Court Council set as a guideline, a maximum fee of \$60 per hour for court appointed counsel (including guardian at litem) and \$400 per case for CASA. Costs related to psychological examinations also seem to vary amongst districts and are being tracked for consideration by the council.

In addition, Montana's statute regarding indigents is vague and leaves the eligibility determination to each court's discretion based on submitted financial data.

**“46-8-111. Eligibility for court-appointed counsel -- determination of indigence.** The court shall make a determination of indigence.

- (2) In applying for court-appointed counsel, a defendant shall submit a sworn financial statement demonstrating financial inability to obtain legal representation without substantial hardship in providing for personal or family necessities.”

Standards used in other states include such things as requiring net monthly income after expenses to be below a specified dollar amount or a certain percent of federal poverty guidelines with specific asset limits, or if the applicant is eligible for certain means tested public benefits programs.

Implementing objective indigent standards could help control costs. Some other mechanisms used by states to help defray costs include charging a minimal administrative or application fee to all indigent defense criminals, including a surcharge on court filings, and including an additional fee on attorney licenses that is deposited into an indigent defense fund.

#### Options

In order to deal with the uncertainties regarding costs associated with state assumption of district courts, options are provided. The following options would create a partnership between the state and counties in funding variable costs of district courts. A 2001 National Association of Counties report indicated that 24 of the 100 largest counties in the nation funded the entire cost of indigent defense services, and another 25 counties funded 75 percent of the costs. Another 8 counties received 100 percent funding from the state and 23 others received 75 percent funding from the state.

- Provide an incentive to the counties to help control costs by either reducing funds, increasing funds, or through cost sharing. Counties have some ability to influence district court costs. For example, for involuntary commitment proceedings it is the county attorney's decision whether to use the state hospital or more expensive local hospitals for an emergency detention under 53-21-129, MCA. Also, judges decide whether psychiatric examinations will be done by local professionals or through the state hospital, which for this service is more expensive. Under state assumption, costs are no longer a county responsibility and there is no incentive for them to try and minimize district court costs.
- Continue the 65 percent reimbursement mechanism established by the District Court Council for fiscal 2003. A report by the Bureau of Justice Statistics entitled “Indigent Defense Service in Large Counties, 1999” indicates

that traditionally counties have provided 60 percent of all funds for indigent criminal defense services in the largest 100 counties while state governments provided 25 percent.

- Establish a base amount that counties would pay for variable costs with the state funding everything above that amount. This would ease the budgeting process at the county level, as they would have a fixed cost responsibility and at the same time, lower the expense to the state.

The following options could generate funds to offset state general fund used to pay variable costs of district courts. However, the amount of funds generated would be minimal compared to the overall costs. Also, the administrative burden to collect and track the funds could outweigh the benefit.

- Implement an administrative fee for all indigent defense criminals. Some states require applicants to pay a fee to be considered for court appointed counsel. Fees can be paid over time depending on the financial capability of the applicant. Other states require defendants to reimburse the state for the costs of their counsel. Judges may set the amount based on the person's ability to pay. 46-8-113, MCA allows courts to require a convicted defendant to pay the costs of court-appointed counsel as a part of or condition under the sentence imposed, but only within their ability to pay.
- Standardize attorney fees, investigation fees, and psychiatric examination fees for indigent defense. For example, Iowa's hourly fee for legal defense of indigent persons ranges from \$45 to \$60 per hour depending on the type of offense. Other states and counties set a flat fee such as \$750 as a retainer for the first 15 hours of service and \$50 per additional hour up to a \$1,500 maximum. As of November 15, 2002, the District Court Council set as a guideline, \$60 per hour for court appointed counsel and \$400 per case for CASA. The council is also exploring maximum fees for psychiatric examinations.
- Implement a surcharge on court filings. There is already a \$5 automation surcharge that generates approximately \$1 million annually, but is scheduled to sunset at the end of fiscal 2003. However, legislation to continue and double the fee to fund information technology for the Judicial Branch is proposed. If approved, collections would be near \$4.0 million based on historical automation surcharge revenue. The Executive Budget requests \$3.4 million to fund judicial branch information technology needs. The legislature may want to consider directing the excess or a portion of the funds to variable costs of district courts. Additional legislation is proposed to add a \$7 surcharge on criminal and civil filings in courts of limited jurisdiction under the Department of Justice budget to fund the Law Enforcement Academy.
- Increase district court fees. There are currently about 24 district court fees deposited to the state general fund that range from \$1.00 for oath or jurat with seal to \$2,500 for filing a judgment against a foreign capital depository. Since 1991, almost half of the fees were increased by an average of \$25 and four new fees were added. Fees deposited to the state general fund that have not been increased since 1991 include certification with a seal, oath or jurat with a seal, filing for transfer from another county, declaration of marriage, substitution of a judge, and registering a process server.

Figure 3

District Court Fees														
Statute		Current Fee	Amt deposited		History of Fee Increases									
MCA	Fee Description	Amount	in State GF		1981	1983	1985	1987	1989	1991	1993	1995	1997	1999
25-1-201(a)	Commencement of action or proceeding from the plaintiff or petitioner*	\$90.00	\$81.00	\$25.00				\$60.00		\$80.00				\$90.00
	(a) Filing a Complaint in Intervention, by the intervenor	\$80.00	\$80.00	\$20.00	\$25.00			\$60.00		\$80.00				
	(a) Commencement of petition for dissolution of marriage*	\$160.00	\$116.00	\$0.00	\$25.00	\$30.00	\$100.00			\$120.00			\$150.00	\$160.00
	(a) Commencement of petition for legal separation**	\$150.00	\$115.00	\$0.00					\$100.00	\$120.00			\$150.00	
	(a) Petition for contested amendment of final parenting plan	\$120.00	\$120.00	\$0.00									\$120.00	
	(b) Appearance of each defendant or each respondent	\$60.00	\$60.00	\$15.00				\$40.00		\$60.00				
	(c) Entry or renewal of Judgment, from prevailing party	\$45.00	\$45.00	\$10.00				\$25.00		\$45.00				
		\$50/5, \$.25 each after		\$0.00	\$0.25			\$0.50						
	(d) For preparing copies: \$.50 per page for first five pages of each file per request and .25 per page thereafter***	\$2.00	\$2.00	\$0.50				\$2.00						
	(e) For certification with a seal	\$1.00	\$1.00	\$0.50				\$1.00						
	(f) For oath or jurat with seal	\$0.50	\$0.00	\$0.25				\$0.50						
	(g) For searching court records, per year, per name (not to exceed \$25.00)***	\$45.00	\$45.00	\$5.00					\$25.00		\$45.00			
	(h) Filing/docketing: transcript of judgment, or transcript of docket from other courts	\$5.00	\$5.00	\$2.00					\$5.00					
	(i) Execution or orders of sale on foreclosure of lien	\$5.00	\$0.00	\$5.00										
	(j) Transmission of records or files to another court***	\$10.00	\$10.00	\$10.00										
	(k) For filing a transfer from another county (includes lower court appeals)	\$30.00	\$30.00	\$15.00	\$30.00									
	(l) Issuing a marriage license - declaration of marriage													
	Application for probate, guardianship or conservatorship case when commenced, includes filing of the will; ancillary													
	(m) with Montana letters issued	\$70.00	\$70.00	\$35.00				\$50.00		\$70.00				
	(n) Filing of letters, bonds inventory by a foreign personal represntative of nonresident decendent estate	\$55.00	\$55.00	\$0.00	\$35.00					\$55.00				
	(o) Filing declaration of marriage without solemnization	\$30.00	\$30.00	\$30.00										
	(p) Substitution of Judge (charge governmental agencies - excluding criminal cases	\$100.00	\$100.00	\$0.00				\$100.00						
	(q) At the commencement of each Petition for Adoption****	\$75.00	\$5.00	\$0.00									\$75.00	
25-1-1103	For registering process server	\$100.00	\$100.00	\$0.00				\$100.00						
25-9-506(1)	Filing a foreign judgment	\$60.00	\$60.00	\$0.00					\$60.00					
25-9-506(2)	Filing judgement against a customer of a foreign capital depository	\$2,500.00	\$2,500.00	\$0.00									\$2,500.00	
25-9-804	Recognition of judgement in a foreign state against a foreign capitol depository cust	\$2,500.00	\$2,500.00	\$0.00									\$2,500.00	
25-1-202	Additional Filing Fee for Civil Action (Fee for Court Reporter)	\$20.00	\$20.00	\$3.00					\$10.00				\$20.00	
27-9-103	Confession of judgement	\$45.00	\$45.00	\$10.00					\$25.00			\$45.00		
* \$5 deposited in childrens trust fund, \$9 deposited in the civil legal assistance for indigent victims of domestic violence account, \$30 deposited in the partner & family member assault intervention & treatment fund														
** \$5 deposited in childrens trust fund, \$30 deposited in the partner and family member assault intervention & treatment fund														
*** These fees must be deposited in the county district court fund														
****\$70 deposited into a state special revenue account for costs of the DPHHS in completing or contracting for adoption services														
July 15, 2002														

- Consolidate staff amongst judicial districts. In the final report of the Court Funding and Structure Committee, MACO indicated that a benefit of state assumption was that cost containment could be achieved through examples such as staff consolidation and work share programs. The District Court Council is currently going through a resource allocation process and will consider shifting positions and resources between judicial districts to establish equity amongst counties. But, the council does not intend to consolidate positions.
- Implement an attorney fee that would be deposited into an indigent defense fund. According to the American Bar Association website, Minnesota, Ohio and Oregon are the only states with a fee on attorney registrations to fund civil legal services for the poor. Minnesota's fee is \$50 (\$25 for new attorneys admitted three years or less) and raised \$894,000 in 2000. Ohio uses \$375,000 of attorney registration revenue for civil legal services. Specifics were not provided for Oregon. Also, 24 states have a voluntary add-on option with their bar dues, generating from \$2,000 in Washington to \$515,000 in Texas. Attorneys in Montana currently pay an annual \$25 license tax and an additional \$245 for state bar dues and other fees. There are approximately 3,700 attorneys registered with the Montana State Bar. Doubling the license tax would provide about \$92,500. However, if each registered attorney donated one hour of their salary per year, assuming \$100 per hour average attorney salary, \$370,000 could be generated. The legislature generally defers the decision of what level of fees to implement to the court.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	34.75	0.00	16.00	50.75	0.00	16.00	50.75	50.75
Personal Services	2,419,693	(52,538)	671,641	3,038,796	(56,837)	674,694	3,037,550	6,076,346
Operating Expenses	950,362	204,279	668,460	1,823,101	193,964	638,852	1,783,178	3,606,279
Equipment	0	0	0	0	0	0	0	0
Grants	0	0	480,849	480,849	0	480,849	480,849	961,698
<b>Total Costs</b>	<b>\$3,370,055</b>	<b>\$151,741</b>	<b>\$1,820,950</b>	<b>\$5,342,746</b>	<b>\$137,127</b>	<b>\$1,794,395</b>	<b>\$5,301,577</b>	<b>\$10,644,323</b>
General Fund	2,941,468	113,252	0	3,054,720	99,072	0	3,040,540	6,095,260
State/Other Special	55,000	95,000	1,747,342	1,897,342	95,000	1,721,019	1,871,019	3,768,361
Federal Special	373,587	(56,511)	73,608	390,684	(56,945)	73,376	390,018	780,702
<b>Total Funds</b>	<b>\$3,370,055</b>	<b>\$151,741</b>	<b>\$1,820,950</b>	<b>\$5,342,746</b>	<b>\$137,127</b>	<b>\$1,794,395</b>	<b>\$5,301,577</b>	<b>\$10,644,323</b>

### Program Description

The Supreme Court has appellate jurisdiction for the State of Montana. It has original jurisdiction to issue, hear, and determine writs of habeas corpus and other such writs as may be provided by law. It also has general supervisory control over all other courts in the state. The Supreme Court is charged with establishing rules governing appellate procedure, the practice and procedure for all other courts, admission to the bar, and the conduct of its members. The Supreme Court consists of a Chief Justice and six justices. SB 176, approved by the 57th Legislature, mandated state funding of Montana District Courts with general fund revenue. The change to state funding made district courts part of the Judicial Branch of state government and made the Supreme Court responsible for the management of district court costs and operations. The Supreme Court also administers the local citizen review board program for foster care placements, the federal court assessment program, and the court-appointed special advocate program.

### Program Narrative

<b>Supreme Court Operations Major Budget Highlights</b>
<ul style="list-style-type: none"> <li>○ Total funding increases nearly \$2.0 million per year over fiscal 2002 expenditures</li> <li>○ \$100,000 per year general fund increase is due to statewide present law adjustments and proposed pay increases for 2.00 FTE</li> <li>○ State special revenue increases \$1.7 million per year to fund Judicial Branch information technology and is contingent on legislation that increases and continues the information technology surcharge (approval of the IT funding would add 14.00 FTE to the Supreme Court)</li> <li>○ 2.00 federally funded FTE are requested including a federal grant manager and court assessment program coordinator</li> </ul>
<b>Major LFD Issues</b>
<ul style="list-style-type: none"> <li>○ Potential negative fund balance in legal assistance account due to expenditure level</li> <li>○ Request for funding when funds are already contained in the base</li> <li>○ Judicial Branch Information Technology</li> </ul>

## Funding

The following table shows program funding, by source, for the base year and for the 2005 biennium as recommended by the Governor.

Program Funding Table Supreme Court Operations						
Program Funding	Base Fiscal 2002	% of Base Fiscal 2002	Budget Fiscal 2004	% of Budget Fiscal 2004	Budget Fiscal 2005	% of Budget Fiscal 2005
01100 General Fund	\$ 2,941,468	87.3%	\$ 3,054,720	57.2%	\$ 3,040,540	57.4%
02342 Court Automation Surcharge	-	-	1,747,342	32.7%	1,721,019	32.5%
02399 Boards And Commissions - Mji	-	-	-	-	-	-
02536 Legal Assistance	55,000	1.6%	150,000	2.8%	150,000	2.8%
02693 Air Transportation Special Revenue	-	-	-	-	-	-
02919 Csed Registry - Dphhs	-	-	-	-	-	-
03230 Fed Grant-Pass-Thru-Jud	170,290	5.1%	204,341	3.8%	204,054	3.8%
03352 Child Sup-Missoula Project-Fs	<u>203,297</u>	<u>6.0%</u>	<u>186,343</u>	<u>3.5%</u>	<u>185,964</u>	<u>3.5%</u>
Grand Total	<u>\$ 3,370,055</u>	<u>100.0%</u>	<u>\$ 5,342,746</u>	<u>100.0%</u>	<u>\$ 5,301,577</u>	<u>100.0%</u>

This program is funded with a combination of general fund, state special revenue funds, and federal special revenue funds. General fund supports Supreme Court operations, legislative audits, and the foster care review board program, and provides matching funds for the federal court assessment program and the court-appointed special advocate program.

State special revenue comes from a user surcharge of \$5 on court filings and totals nearly \$1.0 million per year. There is a proposal to increase the surcharge to \$10 to fund judicial branch information technology needs. This program also receives \$9 of the filing fee for divorce cases, generating approximately \$95,000 per year to pay for legal defense of indigent victims of domestic violence. Federal grant funds support the court assessment program, the court-appointed special advocate program, and the foster care review board.

Present Law Adjustments									
-----Fiscal 2004-----					-----Fiscal 2005-----				
FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
Personal Services				(60,241)					(64,540)
Vacancy Savings				0					0
Inflation/Deflation				3,022					3,361
Fixed Costs				106,257					95,603
<b>Total Statewide Present Law Adjustments</b>				<b>\$49,038</b>					<b>\$34,424</b>
DP 1001 - Pay Plan Implementation									
0.00	7,703	0	0	7,703	0.00	7,703	0	0	7,703
DP 1003 - Legal Assistance for Domestic Violence Victims									
0.00	0	95,000	0	95,000	0.00	0	95,000	0	95,000
<b>Total Other Present Law Adjustments</b>									
<b>0.00</b>	<b>\$7,703</b>	<b>\$95,000</b>	<b>\$0</b>	<b>\$102,703</b>	<b>0.00</b>	<b>\$7,703</b>	<b>\$95,000</b>	<b>\$0</b>	<b>\$102,703</b>
<b>Grand Total All Present Law Adjustments</b>				<b>\$151,741</b>					<b>\$137,127</b>

## Executive Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget made by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Legislative decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

DP 1001 - Pay Plan Implementation - The District Court assumption bill directed the Judicial Branch to develop and implement a branch-wide classification and compensation plan by July 1, 2003. The National Center for State Courts, following extensive review, recommended a classification and pay plan, which was approved by the Montana Supreme

Court in June 2002. The plan established a grade system with a minimum and maximum pay rate for each pay grade. The pay rates are based in large part on the Executive Branch pay plan. Employees were placed on the system at their county rate of pay. Starting in July 2003, employees above the maximum rate will be frozen until the pay matrix moves enough to "catch-up" with these employees. There are currently two employees below the minimum rate in this program. This proposal would move these employees to the minimum pay rate for the assigned grade.

### LFD COMMENT

This proposal adjusts the pay for 2.00 of the 25.00 FTE below the minimum pay level as determined under the judicial branch pay plan for an annual general fund cost of \$7,703. SB 176 directed the Supreme Court to develop and adopt the plan but did not address increasing salaries that fall below the minimum level.

**DP 1003 - Legal Assistance for Domestic Violence Victims** - This request asks for a state special revenue appropriation for funds distributed from the marriage dissolution fee at the level of estimated revenues collected. The 1999 legislature established this fee to provide legal assistance to indigent victims of domestic abuse.

### LFD ISSUE

#### Fund Adequacy and Base Expenditures

25-1-201 (3)(a) and (6), MCA requires that \$9.00 of the \$90 civil filing fee and \$160 divorce fee must be deposited into the civil legal assistance for indigent victims of domestic violence account for the sole purpose of "providing legal representation for indigent victims in civil matters in domestic violence cases and for alternative dispute resolution initiatives in family law cases." \$55,000 of actual expenditures is included in the fiscal 2002 base. This proposal would bring the total appropriation to \$150,000, equivalent to the fiscal 2002 appropriation level and executive projected annual revenues. However the highest level of revenues collected in the three years of the account's existence was about \$97,000 in fiscal 2002. If this proposal is approved for both fiscal 2004 and 2005 and average annual revenue increases are less than 9 percent, the impact would be a possible negative fund balance in fiscal 2005. Civil and domestic case filings increase by about 8 percent from 2000 to 2001. Based on the potential negative fund balance and fiscal 2002 expenditures in the base budget, the legislature may wish to remove \$55,000 from each year of the 2005 biennium budget.

New Proposals -----Fiscal 2004-----						-----Fiscal 2005-----				
Program	FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
DP 1101 - Grant Manager										
01	1.00	0	0	43,618	43,618	1.00	0	0	43,473	43,473
DP 1103 - Court Assessment Program										
01	1.00	0	0	29,990	29,990	1.00	0	0	29,903	29,903
DP 8001 - Judicial Branch Information Technology (Requires Legislation)										
01	14.00	0	1,717,620	0	1,717,620	14.00	0	1,691,297	0	1,691,297
DP 8003 - Computer Replacement (Requires Legislation)										
01	0.00	0	29,722	0	29,722	0.00	0	29,722	0	29,722
<b>Total</b>	<b>16.00</b>	<b>\$0</b>	<b>\$1,747,342</b>	<b>\$73,608</b>	<b>\$1,820,950</b>	<b>16.00</b>	<b>\$0</b>	<b>\$1,721,019</b>	<b>\$73,376</b>	<b>\$1,794,395</b>

### New Proposals

The "New Proposals" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

**DP 1101 - Grant Manager** - The Judicial Branch is requesting a 1.00 FTE grant funds manager to be responsible for developing a system to track all grant applications and awards, including managing the funds and preparing required financial and narrative reports. The goal is to acquire additional grant funding and ensure that funds received are spent within grant guidelines.



**LFD  
COMMENT**

This proposal adds federal authority for an additional FTE. Federal funds have not yet been identified. According to judiciary staff any required match would be provided through in-kind services. The court hired a half-time grant specialist in August 2002 under the District Court Operations program as part of the new 8.50 FTE authorized by the 2001 legislature. According to the Judiciary, the half-time position primarily identifies and applies for grants. The requested position would manage the financial aspects of grants received and ensure compliance with grant requirements.

DP 1103 - Court Assessment Program - This proposal requests federal funding of \$29,990 in fiscal 2004 and \$29,903 in fiscal 2005 to continue the evaluation and improvement of how the judicial system handles child abuse and neglect proceedings. The 1997 legislature originally authorized this program and the federal government has continued to extend funding.

**LFD  
COMMENT**

This proposal would provide federal authority for and make permanent an FTE that has been funded in prior years through a modified position. There are sufficient matching funds of \$7,500 contained in the base budget. The duties of this position include staffing a statewide child abuse and neglect advisory committee and implementing its programs and processes.

**LFD  
ISSUE**

The 2001 legislature provided a general fund appropriation of \$100,000 over the biennium for local CASA/GAL programs, which attempt to prevent child abuse and neglect in local communities. Due to state assumption, CASA/GAL programs are now funded under the district courts, so continuing the biennial appropriation in fiscal 2004 is not necessary. Actual expenditures from the biennial appropriation in the fiscal 2002 base were about \$48,500. The legislature may wish to reduce general fund in this program by \$48,500 each year to remove funds carried forward in the base from the biennial appropriation.

The Court Assessment Program was established in June of 1995. It is funded through a federal grant with a 25 percent state match to improve the court system in child abuse and neglect cases. The purpose of the program is to assess the court system, make recommendations based on that assessment, and implement those recommendations to improve the system for children and families. CASA is a program created as a result of the Court Assessment Program.

DP 8001 - Judicial Branch Information Technology (Requires Legislation) - The executive requests approximately \$3.4 million state special revenue funding for the 2005 biennium to provide for branch-wide information technology needs. The existing automation surcharge is scheduled to sunset June 30, 2003. HB 18 would repeal the sunset and increase the surcharge from five to ten dollars. The current charge generates revenues of approximately \$1 million per year. Doubling the surcharge would generate enough revenue to offset the request of \$3.4 million over the biennium. This decision package is contingent on passage and approval of HB 18. This proposal includes funding to provide 14.00 IT staff, related start-up and operating costs, and replacement equipment.

The existing (until 6/30/03) automation program provides system support, training, workstations, file servers, connectivity, and software to all Montana (MT) courts. The current IT environment includes two software applications used in MT courts. First, the Judicial Case Management System (JCMS) is an application developed by the Office of the Court Administrator (OCA) and is the primary product used by district courts and district court clerks to capture and report information, manage cases, and collect and distribute money related to district court operations. The second program supported by the IT division is "Full Court." Full Court is a program licensed from Justice Systems Incorporated that provides case management functionality to the limited jurisdiction courts. Overall, the IT division uses available resources to provide the above described services and equipment to almost 1,000 state and county and city staff across the state.

**LFD  
ISSUE**

3-1-317, MCA establishes a user surcharge to fund court information technology. The \$5 surcharge applies to defendants in criminal cases, the initiating party in civil and probate cases, and defendants in civil cases.

This proposal continues and expands information technology funding for the Judicial Branch. The current fee generates approximately \$1.0 million dollars per year and funds 6.00 FTE (five information technology specialists, and one information systems analyst) and their associated operating costs at about \$860,000 per year. Staffing would increase to 14.0 FTE adding five network support staff, one help desk and two staff programmers. The detailed budget request includes:

- \$1,200,000 personal services
- \$961,700 grants from state sources
- \$724,700 supplies & materials
- \$22,000 communications
- \$180,800 travel
- \$5,500 rent
- \$304,300 other services
- \$9,600 other expense

The majority of the supplies and materials budget would fund computer replacements for former county staff assumed by the state (312), clerk of court staff (225) and limited courts staff (156 courts 2 workstations per court) on a four-year replacement schedule, approximately 212 per year at \$1,351 per computer.

The neighboring states of Idaho, Wyoming and South Dakota also fund their judicial information technology system through a surcharge. Idaho's \$5 surcharge generates about \$1.2 million annually and funds 10.00 FTE and their operating costs. South Dakota receives 95 percent of its automation budget from filing fees and has 13.00 FTE performing IT functions. Wyoming's fee is \$20 with \$10 deposited into a state special revenue account for court automation and \$10 deposited into the general fund. The IT program has 5.00 FTE and most of the work is done through contracted services.

Court automation funding has been provided through the Montana legislature since the late 80's, with the court automation surcharge first authorized by the 1995 legislature. Prior to implementation of the surcharge the Judiciary spent over \$1.2 million general fund on court automation activities to 1) evaluate court technology nationwide; 2) install and purchase computers for a portion of the courts across the state; 3) develop the Montana Judicial Case Management System and the Limited Judicial Case Management System; 4) provide technical assistance and staff support to judicial branch users statewide. The funds expended came from various sources including discontinued Department of Community Affairs funds and unspent district court criminal reimbursement funds.

Since implementation of the surcharge by the 1995 legislature, the Judiciary has spent over \$5.8 million of surcharge collections of which 50 percent was for hardware and software purchases for courts at the county and municipal level, 35 percent was expended on personal services, and the remaining 15 percent was expended on operating costs that consist mostly of travel expenses. The initial legislation had a termination date of June 30, 1999. The date was extended to June 30, 2003 by the 1999 legislature. This proposal will make the automation surcharge permanent.

During the current biennium, the Judicial Branch has hired their first information technology manager and drafted their first Information Technology Strategic Plan through collaboration with staff of the state's chief information officer and the Commission on Technology established by order of the Supreme Court. This plan will guide future IT initiatives and funding requests to fulfill the IT mission of "providing systems, applications, and tools that allow stakeholders appropriate exchange of information in a standardized, flexible, reliable, secure, cost effective, and efficient environment."

**LFD  
ISSUE  
(continued)**

Current biennium accomplishments include establishing e-mail communication and electronic payroll for 300 new district court staff; establishing on-line Supreme Court opinions, appellate briefs, and official rules and orders through the law library; and providing technical support to 925 state, county and city staff across the state. Future plans for the requested funding include:

- Elimination, replacement or upgrade of existing state operated file servers used for support of the Judicial Case Management System (JCMS)
- Upgrade or replacement of JCMS
- Establishment of a 4-year replacement cycle for all supported computer equipment
- Complete deployment of Full Court to Courts of Limited Jurisdiction to replace limited jurisdiction court management system (LJCMS)
- Compliance with state standards for hardware, software, and policy
- Better utilization of state's IT resources to provide desktop services and support to end-users
- Replacement of Supreme Court's Case Management System

There is a \$149,000 current fund balance in the account, so if the increase and continuation of the fee are approved there would be sufficient funding to support this proposal. The legislature may want to review whether the division is successful, whether it's heading in the right direction, and whether it warrants funding in future biennia. Although the draft strategic plan identifies goals and objectives, specific outcome measures are not included. Such measures could include:

- Less than a certain percentage of equipment, hardware, software and applications is obsolete or deficient
- Develop branchwide standards for software, hardware, security, communication, and application by a specific date
- Increase hits on web-site by a certain percentage
- A percentage target for connectivity of all field offices

In an effort to determine the effectiveness of this effort, the legislature may want to request that the judiciary identify some performance measures related to objectives of the strategic plan or in addition to those identified in the plan for the next biennium and report back the results to the following legislature or an interim committee. In addition, if HB 18 is approved, the legislature may wish to extend rather than make permanent the automation surcharge.

DP 8003 - Computer Replacement (Requires Legislation) - This request is for computer replacement on a four-year replacement cycle. There are 88 devices with 25 percent, or 22 machines, being replaced each year of the biennium. These machines are for the Clerk of Court, Law Library, Supreme Court Justices and Court Administration personnel. This proposal is funded with a continuation of information technology surcharge funds, which are scheduled to sunset but recommended to be ongoing contingent on passage and approval of HB 18.

**LFD  
ISSUE**

\$35,700 was expended on computers throughout the agency in fiscal 2002 and included in the base. If this proposal is approved, the legislature may want to reduce general fund by this amount in each year.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	3.00	0.00	0.00	3.00	0.00	0.00	3.00	3.00
Personal Services	79,475	34,495	0	113,970	34,434	0	113,909	227,879
Operating Expenses	169,218	941	0	170,159	1,015	0	170,233	340,392
<b>Total Costs</b>	<b>\$248,693</b>	<b>\$35,436</b>	<b>\$0</b>	<b>\$284,129</b>	<b>\$35,449</b>	<b>\$0</b>	<b>\$284,142</b>	<b>\$568,271</b>
General Fund	248,693	35,436	(25,000)	259,129	35,449	(25,000)	259,142	518,271
State/Other Special	0	0	25,000	25,000	0	25,000	25,000	50,000
<b>Total Funds</b>	<b>\$248,693</b>	<b>\$35,436</b>	<b>\$0</b>	<b>\$284,129</b>	<b>\$35,449</b>	<b>\$0</b>	<b>\$284,142</b>	<b>\$568,271</b>

### Program Description

The Boards and Commissions Program oversees functions assigned to the Supreme Court either by legislative or constitutional mandate. The program manages judicial discipline, rules, and other substantive matters aimed at improving and maintaining the administration of justice. Commissions and boards included in the program are the Judicial Standards Commission; Sentence Review Division; Commission on Practice; Commission on Courts of Limited Jurisdiction; and the Judicial Nominations Commission.

### Program Narrative

<b>Boards and Commissions Major Budget Highlights</b>
<ul style="list-style-type: none"> <li>○ Funding increases about \$35,450 per year or 14.2 percent over fiscal 2002 expenditures</li> <li>○ A funding switch, replacing \$25,000 general fund with state special revenue from training and registration fees charged to judges of courts of limited jurisdiction, is proposed</li> </ul>
<b>Major LFD Issues</b>
<ul style="list-style-type: none"> <li>○ Base expenditures for consultant and professional services do not reflect a typical year</li> </ul>

## Funding

The following table shows program funding, by source, for the base year and for the 2005 biennium as recommended by the Governor

<b>Program Funding Table Boards And Commissions</b>						
Program Funding	Base Fiscal 2002	% of Base Fiscal 2002	Budget Fiscal 2004	% of Budget Fiscal 2004	Budget Fiscal 2005	% of Budget Fiscal 2005
01100 General Fund	\$ 248,693	100.0%	\$ 259,129	91.2%	\$ 259,142	91.2%
02399 Boards And Commissions - Mji	-	-	25,000	8.8%	25,000	8.8%
Grand Total	\$ 248,693	100.0%	\$ 284,129	100.0%	\$ 284,142	100.0%

This program is funded with general fund. Minimal costs are recovered through a fee imposed by the Courts of Limited Jurisdiction for training and attorney investigation repayments. These funds are subsequently deposited to the general fund. The executive proposes a funding switch that would retain these funds in a state special revenue account.

Present Law Adjustments									
-----Fiscal 2004-----					-----Fiscal 2005-----				
FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
Personal Services				34,495					34,434
Vacancy Savings				0					0
Inflation/Deflation				949					1,023
Fixed Costs				(8)					(8)
<b>Total Statewide Present Law Adjustments</b>				<b>\$35,436</b>					<b>\$35,449</b>
<b>Grand Total All Present Law Adjustments</b>				<b>\$35,436</b>					<b>\$35,449</b>

## Executive Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget made by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Legislative decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

**LFD  
ISSUE** Fiscal 2002 expenditures for consultant & professional services were about \$74,000 greater than previous years due to significant costs of the Judicial Standards Commission for a pornography case involving a lower court judge in Great Falls. "Investigative costs" paid to investigating attorneys are charged to consultant and professional services. Since fiscal 2002 expenditures do not reflect a typical year, the legislature may want to consider reducing general fund by \$74,000 or a portion thereof.

New Proposals										
Program	FTE	Fiscal 2004				FTE	Fiscal 2005			
		General	State Special	Federal Special	Total Funds		General	State Special	Federal Special	Total Funds
DP 2101 - Courts of Limited Jurisdiction Funding Switch										
02	0.00	(25,000)	25,000	0	0	0.00	(25,000)	25,000	0	0
<b>Total</b>	<b>0.00</b>	<b>(\$25,000)</b>	<b>\$25,000</b>	<b>\$0</b>	<b>\$0</b>	<b>0.00</b>	<b>(\$25,000)</b>	<b>\$25,000</b>	<b>\$0</b>	<b>\$0</b>

### New Proposals

The "New Proposals" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

DP 2101 - Courts of Limited Jurisdiction Funding Switch - This proposal requests \$25,000 state special revenue each year to replace current general fund used to provide training for judges of courts of limited jurisdiction. Class registration fees will provide the source of state special revenue.

#### LFD COMMENT

Up until fiscal 2002, these fees were collected and deposited into the general fund. A state special revenue account was established and now funds are deposited to it. Therefore, there is no impact to the general fund.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	7.50	0.00	0.00	7.50	0.00	0.00	7.50	7.50
Personal Services	325,725	(11,308)	0	314,417	(9,497)	0	316,228	630,645
Operating Expenses	128,123	698	0	128,821	709	0	128,832	257,653
Equipment	329,311	0	0	329,311	0	0	329,311	658,622
<b>Total Costs</b>	<b>\$783,159</b>	<b>(\$10,610)</b>	<b>\$0</b>	<b>\$772,549</b>	<b>(\$8,788)</b>	<b>\$0</b>	<b>\$774,371</b>	<b>\$1,546,920</b>
General Fund	783,159	(10,610)	0	772,549	(8,788)	0	774,371	1,546,920
<b>Total Funds</b>	<b>\$783,159</b>	<b>(\$10,610)</b>	<b>\$0</b>	<b>\$772,549</b>	<b>(\$8,788)</b>	<b>\$0</b>	<b>\$774,371</b>	<b>\$1,546,920</b>

### Program Description

The State Law Library houses reference materials used by the Supreme Court, lower courts, the legislature, state officers and employees, members of the bar, and the general public. The collection includes legal materials from the federal government and all 50 states, as well as Canada. Some of the books and materials contained in the library include treatises, law reviews, reports, microfilm, and audio/video tapes for continuing legal education. Access to much of this material is provided through the library's Internet site. A Board of Trustees, consisting of the Supreme Court justices, governs the library.

### Program Narrative

Law Library Major Budget Highlights	
○	Program funding is reduced approximately 1.3 percent over fiscal 2002 actual expenditures due to a personal services decrease in the adjusted base
○	Additional present law adjustments or new proposals are not included

### Funding

The following table shows program funding, by source, for the base year and for the 2005 biennium as recommended by the Governor

Program Funding Table Law Library						
Program Funding	Base Fiscal 2002	% of Base Fiscal 2002	Budget Fiscal 2004	% of Budget Fiscal 2004	Budget Fiscal 2005	% of Budget Fiscal 2005
01100 General Fund	<u>\$ 783,159</u>	<u>100.0%</u>	<u>\$ 772,549</u>	<u>100.0%</u>	<u>\$ 774,371</u>	<u>100.0%</u>
Grand Total	<u>\$ 783,159</u>	<u>100.0%</u>	<u>\$ 772,549</u>	<u>100.0%</u>	<u>\$ 774,371</u>	<u>100.0%</u>

This program is funded with general fund. Minimal costs are recovered through fees charged for copies, faxes, and rental of audio/video cassettes. These fees are deposited to the general fund.

Present Law Adjustments											
-----Fiscal 2004-----						-----Fiscal 2005-----					
	FTE	General	State Special	Federal Special	Total Funds		FTE	General	State Special	Federal Special	Total Funds
Personal Services					(11,308)						(9,497)
Vacancy Savings					0						0
Inflation/Deflation					698						709
Total Statewide Present Law Adjustments					(\$10,610)						(\$8,788)
Grand Total All Present Law Adjustments					(\$10,610)						(\$8,788)

### Executive Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget made by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Legislative decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

### Proprietary Rates

#### Program Description

Law Library Searches/Research Enterprise Fund - The law library is billed by the on-line provider for the air time, and the law library in turn bills the requesting entity for the cost of the search performed.

#### Revenues and Expenses

The Law Library staff performs on-line searches/research for public and private entities. The law library is billed by the on-line provider for the air time and the Law Library, in turn, bills the entity requesting the search/research, collects the money and pays the provider.



**Report on Internal Service and Enterprise Funds, 2005 Biennium**

Fund	Fund Name	Agency #	Agency Name	Program Name		
06019	Judiciary Law Library	21100	Judiciary	Law Library		
					actual FY00	actual FY01
					actual FY02	budgeted FY03
					budgeted FY04	budgeted FY05
<b>Operating Revenues:</b>						
Fee revenue						
Law Library Legal Research					39,899	31,425
Net Fee Revenue					-	-
Investment Earnings					-	-
Securities Lending Income					-	-
Premiums					-	-
Other Operating Revenues					39,899	31,425
Total Operating Revenues					39,899	31,425
Intrafund Revenue					-	-
Net Operating Revenues					39,899	31,425
<b>Operating Expenses:</b>						
Personal Services					-	-
Other Operating Expenses					36,962	41,118
Miscellaneous, operating					-	-
Miscellaneous, other					-	-
Total Operating Expenses					36,962	41,118
Intrafund Expense					-	-
Net Operating Expenses					36,962	41,118
Operating Income (Loss)					2,937	(9,693)
<b>Nonoperating Revenues (Expenses):</b>						
Gain (Loss) Sale of Fixed Assets					-	-
Federal Indirect Cost Recoveries					-	-
Other Nonoperating Revenues (Expenses)					-	-
Net Nonoperating Revenues (Expenses)					-	-
Income (Loss) Before Operating Transfers					2,937	(9,693)
Contributed Capital					-	-
Operating Transfers In (Note 13)					-	-
Operating Transfers Out (Note 13)					-	-
Retained Earnings/Fund Balances - July 1 - As Restated					-	3,069
Net Income (Loss)					2,937	(9,693)
Retained Earnings/Fund Balances - June 30					2,937	(6,624)
60 days of expenses					6,160	8,333
(Total Operating Expenses divided by 6)					6,160	8,333

**Fee/Rate Information:**

The law library performs on-line searches/research for public & private entities. The law library is billed by the on-line provider for the air time; the library, in turn, bills the requestor, collects the money and pays the provider.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	295.68	0.00	0.00	295.68	0.00	0.00	295.68	295.68
Personal Services	4,720,728	11,751,619	0	16,472,347	11,724,844	0	16,445,572	32,917,919
Operating Expenses	365,438	7,541,257	0	7,906,695	8,439,491	0	8,804,929	16,711,624
Equipment	0	0	0	0	0	0	0	0
<b>Total Costs</b>	<b>\$5,086,166</b>	<b>\$19,292,876</b>	<b>\$0</b>	<b>\$24,379,042</b>	<b>\$20,164,335</b>	<b>\$0</b>	<b>\$25,250,501</b>	<b>\$49,629,543</b>
General Fund	5,086,166	19,292,876	0	24,379,042	20,164,335	0	25,250,501	49,629,543
Federal Special	0	0	0	0	0	0	0	0
<b>Total Funds</b>	<b>\$5,086,166</b>	<b>\$19,292,876</b>	<b>\$0</b>	<b>\$24,379,042</b>	<b>\$20,164,335</b>	<b>\$0</b>	<b>\$25,250,501</b>	<b>\$49,629,543</b>

### Program Description

The District Court Operations Program funds salaries, travel and training costs for the state's district judges. Also, with the passage of SB 176 by the 57th Legislature, the Supreme Court is responsible for the costs, oversight and management of the staff and associated operations in the state's 22 district courts, excluding the clerks of court and other elected officials, and the provision of office space. District courts are general jurisdiction trial courts having original jurisdiction in all criminal felony cases, civil matters, and cases of law.

### Program Narrative

District Court Operations Major Budget Highlights	
<ul style="list-style-type: none"> <li>Total funding increases \$19.3 million in fiscal 2004 and \$20.2 million in fiscal 2005 over base year expenditures, primarily due to state assumption of district court costs</li> <li>Without district court assumption, the District Court Operations budget increases approximately \$1.0 million per year or 21 percent over fiscal 2002 actual expenditures</li> </ul>	
Major LFD Issues	
For a discussion of District Court Assumptions, please see the agency narrative	

### Funding

The following table shows program funding, by source, for the base year and for the 2005 biennium as recommended by the Governor

Program Funding Table District Court Operations							
	Base Fiscal 2002	% of Base Fiscal 2002	Budget Fiscal 2004	% of Budget Fiscal 2004	Budget Fiscal 2005	% of Budget Fiscal 2005	
Program Funding							
01100 General Fund	\$ 5,086,166	100.0%	\$ 24,379,042	100.0%	\$ 25,250,501	100.0%	
02693 Air Transportation Special Revenue	-	-	-	-	-	-	
Grand Total	<u>\$ 5,086,166</u>	<u>100.0%</u>	<u>\$ 24,379,042</u>	<u>100.0%</u>	<u>\$ 25,250,501</u>	<u>100.0%</u>	

This program is funded with general fund. District court fees are collected and deposited into the general fund.

Present Law Adjustments										
-----Fiscal 2004-----					-----Fiscal 2005-----					
	FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
Personal Services					11,681,323					11,654,548
Vacancy Savings					0					0
Inflation/Deflation					1,087					1,484
Fixed Costs					273,050					273,050
<b>Total Statewide Present Law Adjustments</b>					<b>\$11,955,460</b>					<b>\$11,929,082</b>
DP 4001 - Pay Plan Implementation	0.00	70,296	0	0	70,296	0.00	70,296	0	0	70,296
DP 4002 - Federal Building Rent	0.00	106,123	0	0	106,123	0.00	108,245	0	0	108,245
DP 4003 - Annualize Operating Costs for New Judges	0.00	44,600	0	0	44,600	0.00	44,600	0	0	44,600
DP 4004 - State District Court Costs - Adjusted Base	0.00	7,116,397	0	0	7,116,397	0.00	8,012,112	0	0	8,012,112
<b>Total Other Present Law Adjustments</b>	<b>0.00</b>	<b>\$7,337,416</b>	<b>\$0</b>	<b>\$0</b>	<b>\$7,337,416</b>	<b>0.00</b>	<b>\$8,235,253</b>	<b>\$0</b>	<b>\$0</b>	<b>\$8,235,253</b>
<b>Grand Total All Present Law Adjustments</b>					<b>\$19,292,876</b>					<b>\$20,164,335</b>

### Executive Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget made by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Legislative decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

DP 4001 - Pay Plan Implementation - The District Court assumption bill directed the Judicial Branch to develop and implement a branch wide classification and compensation plan by July 1, 2003. The National Center for State Courts, following extensive review, recommended a classification and pay plan, which was approved by the Montana Supreme Court in June 2002. The plan established a grade system with a minimum and maximum pay rate for each pay grade. The pay rates are based in large part on the Executive Branch pay plan. Employees were placed on the system at their county rate of pay. Starting in July 2003, employees above the maximum rate will be frozen until the pay matrix moves enough to "catch-up" with these employees. There are 23 employees currently below the minimum rate in this program. This proposal would move these employees to the minimum pay rate for the assigned grade.

#### LFD COMMENT

This proposal adjusts the pay for 23.00 of the 25.00 FTE below the minimum pay level as determined under the judicial branch pay plan for an annual general fund cost of \$70,296. SB 176 guarantees former county employee salaries at their June 30, 2002 level, and protects them from reductions based on branch wide pay plan implementation, which becomes effective on July 1, 2003. But there was no provision for increasing employee pay that falls below the minimum pay range specified in the pay plan.

In addition, fiscal 2003 personal services costs are higher than anticipated due to pay increases provided to some county employees in the year prior to state assumption, implementation of the fiscal 2003 pay raise on July 1 rather than October 1 along with providing it to the new county employees, and costs of the 8.50 FTE approved by the 2001 legislature. Refer to issues under the agency discussion for more detailed information.

DP 4002 - Federal Building Rent - The branch was authorized 8.50 FTE in the 2003 biennium for the administration of state assumption of district courts. The Department of Administration located office space in the federal building for these FTE. The associated rent is \$106,123 in fiscal 2004 and \$108,245 in fiscal 2005.

**LFD  
COMMENT**

The assumption was made in the fiscal note accompanying SB 176 that office space would be available on the Capitol Complex and rent would be paid at the budgeted rate for the new District Courts Administrative Office (\$4.77 per square foot, per year). The rate at the federal building is \$10.75 per square foot, per year. Consequently, this is an additional expense of district court assumption that was not anticipated by the legislature.

DP 4003 - Annualize Operating Costs for New Judges - This proposal annualizes the operating costs for the two judges taking office January 1, 2003, in Ravalli County and Cascade County. The request for \$44,600 per year includes funding for supplies, telephone, postage, and legal research for two judges and six staff.

**LFD  
COMMENT**

These new judges were authorized by the 2001 legislature with staff and associated operating costs provided during the August 2002 Special Session. This proposal annualizes funding for the next biennium.

DP 4004 - State District Court Costs - Adjusted Base - The Fifty-seventh Legislature authorized SB 176 to provide for the state assumption of District Courts. As directed in SB 176, sizeable district court expenses are reported and paid in the following expenditure categories: court reporters; jury services; witness services; psychiatric examinations; indigent defense; CASA/GALs; youth court/juvenile probation; and youth in need of care. The executive projects the base costs for these items at \$7,116,397 in FY 2004 and \$8,012,112 in FY 2005. A bill will be introduced at the request of the OBPP to deal with the variable costs that exceed the projected base costs.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	11.00	0.00	0.00	11.00	0.00	0.00	11.00	11.00
Personal Services	560,972	81,897	(15,000)	627,869	84,634	(15,000)	630,606	1,258,475
Operating Expenses	94,043	(900)	0	93,143	(873)	0	93,170	186,313
<b>Total Costs</b>	<b>\$655,015</b>	<b>\$80,997</b>	<b>(\$15,000)</b>	<b>\$721,012</b>	<b>\$83,761</b>	<b>(\$15,000)</b>	<b>\$723,776</b>	<b>\$1,444,788</b>
State/Other Special	655,015	80,997	(15,000)	721,012	83,761	(15,000)	723,776	1,444,788
<b>Total Funds</b>	<b>\$655,015</b>	<b>\$80,997</b>	<b>(\$15,000)</b>	<b>\$721,012</b>	<b>\$83,761</b>	<b>(\$15,000)</b>	<b>\$723,776</b>	<b>\$1,444,788</b>

### Program Description

The Water Courts Supervision Program, located in Bozeman, adjudicates claims of existing water rights in Montana and supervises the distribution of water among the four water divisions of the state, as defined in 3-7-102, MCA.

### Program Narrative

Water Courts Supervision Major Budget Highlights	
<ul style="list-style-type: none"> <li>○ Total funding increases about 10 percent over fiscal 2002 actual expenditures due to personal services increases in the adjusted base</li> <li>○ New proposals include a \$15,000 per year reduction in personal services due to declining revenues to the renewable resource grant and loan account</li> </ul>	

### Funding

The following table shows program funding, by source, for the base year and for the 2005 biennium as recommended by the Governor.

Program Funding Table Water Courts Supervision							
Program Funding	Base	% of Base	Budget	% of Budget	Budget	% of Budget	
	Fiscal 2002	Fiscal 2002	Fiscal 2004	Fiscal 2004	Fiscal 2005	Fiscal 2005	
02272 Renewable Resources Grnt/Loans	\$ 655,015	100.0%	\$ 721,012	100.0%	\$ 723,776	100.0%	
Grand Total	\$ 655,015	100.0%	\$ 721,012	100.0%	\$ 723,776	100.0%	

This program is funded with state special revenue from the renewable resource grant and loan account. These accounts include the resource indemnity and ground water assessment (RIGWA) tax, as well as interest earnings on resource indemnity tax (RIT) trust.

Present Law Adjustments												
-----Fiscal 2004-----						-----Fiscal 2005-----						
	FTE	General	State Special	Federal Special	Total Funds		FTE	General	State Special	Federal Special	Total Funds	
Personal Services					81,897						84,634	
Vacancy Savings					0						0	
Inflation/Deflation					(900)						(873)	
Total Statewide Present Law Adjustments					\$80,997							\$83,761
Grand Total All Present Law Adjustments					\$80,997							\$83,761

### Executive Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget made by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Legislative decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

New Proposals										
-----Fiscal 2004-----						-----Fiscal 2005-----				
Program	FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
DP 5101 - Reduce Water Courts Personal Services										
05	0.00	0	(15,000)	0	(15,000)	0.00	0	(15,000)	0	(15,000)
<b>Total</b>	<b>0.00</b>	<b>\$0</b>	<b>(\$15,000)</b>	<b>\$0</b>	<b>(\$15,000)</b>	<b>0.00</b>	<b>\$0</b>	<b>(\$15,000)</b>	<b>\$0</b>	<b>(\$15,000)</b>

### New Proposals

The "New Proposals" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

DP 5101 - Reduce Water Courts Personal Services - The Water Court is currently funded from the RIT renewable resource account (02272), which has declining revenues and is used to fund programs within several agencies. The requested expenditures drove the fund balance negative. To scale back expenditures, but not disrupt normal operations, the court will reduce the personal services adjusted base by \$15,000 per year in the 2005 biennium.

#### LFD COMMENT

Refer to the RIT discussion in Section C-Natural Resources and Commerce under the Department of Natural Resources and Conservation for details regarding the revenue status. This is a short-term solution to the declining revenue issue as personal services are funded based on the snapshot done each biennium making the reduction one-time in nature. Therefore, if the revenue trend continues in future biennia, the problem will need to be addressed through new decision packages.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	5.50	0.00	0.00	5.50	0.00	0.00	5.50	5.50
Personal Services	257,792	73,522	0	331,314	73,422	0	331,214	662,528
Operating Expenses	37,692	3,956	0	41,648	3,956	0	41,648	83,296
<b>Total Costs</b>	<b>\$295,484</b>	<b>\$77,478</b>	<b>\$0</b>	<b>\$372,962</b>	<b>\$77,378</b>	<b>\$0</b>	<b>\$372,862</b>	<b>\$745,824</b>
General Fund	295,484	77,478	0	372,962	77,378	0	372,862	745,824
<b>Total Funds</b>	<b>\$295,484</b>	<b>\$77,478</b>	<b>\$0</b>	<b>\$372,962</b>	<b>\$77,378</b>	<b>\$0</b>	<b>\$372,862</b>	<b>\$745,824</b>

### Program Description

The Clerk of Court Program performs support and operational duties for the Supreme Court, as outlined in Title 3, Chapter 2, part 4, MCA. The program keeps the court records and files, issues writs and certificates, approves bonds, files all papers and transcripts, and performs other duties as required.

### Program Narrative

Clerk of Court Major Budget Highlights	
○	Total funding increases more than \$76,000 per year over fiscal 2002 actual expenditures due to statewide present law adjustments, along with a \$1,947 annual increase for records storage
○	Approximately \$53,700 of the statewide present law adjustment is a result of a new 0.50 FTE hired at the beginning of fiscal 2003 as authorized by the 2001 legislature, and an additional 0.50 FTE vacancy during the base year

### Funding

The following table shows program funding, by source, for the base year and for the 2005 biennium as recommended by the Governor.

Program Funding Table Clerk Of Court						
Program Funding	Base Fiscal 2002	% of Base Fiscal 2002	Budget Fiscal 2004	% of Budget Fiscal 2004	Budget Fiscal 2005	% of Budget Fiscal 2005
01100 General Fund	\$ 295,484	100.0%	\$ 372,962	100.0%	\$ 372,862	100.0%
Grand Total	\$ 295,484	100.0%	\$ 372,962	100.0%	\$ 372,862	100.0%

This program is funded with general fund.

Present Law Adjustments										
-----Fiscal 2004-----					-----Fiscal 2005-----					
FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds	
Personal Services				73,522					73,422	
Vacancy Savings				0					0	
Inflation/Deflation				1,046					1,046	
Fixed Costs				735					735	
<b>Total Statewide Present Law Adjustments</b>				<b>\$75,303</b>					<b>\$75,203</b>	
DP 6001 - Records Storage and Telephone Equipment										
0.00	2,175	0	0	2,175	0.00	2,175	0	0	2,175	
<b>Total Other Present Law Adjustments</b>										
<b>0.00</b>	<b>\$2,175</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,175</b>	<b>0.00</b>	<b>\$2,175</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,175</b>	
<b>Grand Total All Present Law Adjustments</b>				<b>\$77,478</b>					<b>\$77,378</b>	

### Executive Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget made by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Legislative decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

DP 6001 - Records Storage and Telephone Equipment - The executive includes \$1,947 each year for records storage, and \$228 each year for telephone charges associated with an FTE added by the 2001 legislature.

#### LFD COMMENT

The 2001 legislature appropriated \$3,300 per year for records storage. Actual fiscal 2002 expenditures were \$4,877. This present law adjustment would provide an additional \$1,947 per year bringing the total annual budget to approximately \$6,800 for records storage.